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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/666,294

09/18/2003

Ashish Dubey

2033.66886

9047

24978 7590 05/16/2007

GREER, BURNS & CRAIN  
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CHICAGO, IL 60606

EXAMINER

LEE, EDMUND H

ART UNIT

PAPER NUMBER

1732

MAIL DATE

DELIVERY MODE

05/16/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/666,294

Applicant(s)

DUBEY ET AL.

Examiner

EDMUND H. LEE

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 and 26-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. It should be noted that the examiner of record has changed from M.Dixon to Edmund Lee.
2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/10/06 has been entered.
3. Claims 17 and 26-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "preferably less than 0.65...0.45" (cl 17, lns 3-4) is indefinite because the metes and bounds of the phrase are unascertainable.

The step of providing (cl 26, lns 13-14) is confusing because it is unclear whether or not there is a relationship between the amount/supply of fibers and the projected fiber surface area fraction. If there is a relationship, it should be positively and clearly recited as such.

Correction is required.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1,2,3,10,13, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Pearson et al (USPN 3289371) in view of Yano et al (USPN 3972972). Pearson et al teach the claimed process as evidenced at col 4, ln 74-col 5, ln 50. It should be noted that Yano et al has been provided merely to illustrate the inherent cementitious (cement-like) properties of gypsum.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 4-9, 11-12, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearson et al (USPN 3289371). The above teachings of Pearson et al are incorporated hereinafter. Pearson et al, however, do not teach producing a product having the product limitations of claims 4-7 and 15-17; using a nip roll feeder having a metering roll and a thickness control roll; creating a kneading action, single or multiple times; and using the apparatus set up of claim 12 to form the last layer. In regard to producing a product having the product limitations of claims 4-7 and 15-17, such is a mere obvious matter of choice dependent on the desired final product and of

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little patentable consequence to the claimed process since it is not a manipulative feature or step of the claimed process. Further, the claimed limitations are well-known in cementitious products. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to produce products having the claimed product limitations in order to provide diverse products. In regard to using a nip roll feeder having a metering roll and a thickness control roll, such is well-known in the molding art as an effective means for dispensing and controlling the thickness of cast material onto a web or carrier layer. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the claimed apparatus in the process of Pearson et al in order to efficiently and accurately produce high quality products. In regard to creating a kneading action, single or multiple times, such is well-known in the molding art in order to ensure sufficient mixing of a preform or additive to a molding material. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a single or multiple kneading steps in the process of Pearson et al in order to ensure proper distribution of the fibers into the cementitious material of Pearson et al. In regard to using the apparatus set up of claim 12 to form the last layer, such is well-known in the molding art in order to better control the quality and quantity of the added layer. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the claimed apparatus in the process of Pearson et al in order to achieve the above benefit.

8. Claims 26-32 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

9. Applicant's arguments with respect to claims 1-17 and 26-32 have been considered but are moot in view of the new ground(s) of rejection.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following US patents teach the state of the art: 4203788; 5961900; 4778718; and 3214311 .

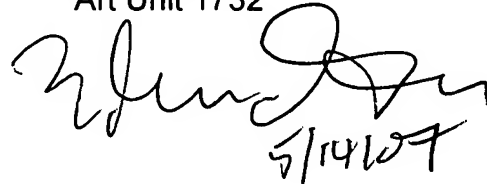
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDMUND H. LEE whose telephone number is 571.272.1204. The examiner can normally be reached on MONDAY-THURSDAY FROM 9AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on 571.272.1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EDMUND H. LEE  
Primary Examiner  
Art Unit 1732



5/14/07

EHL